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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,255	12/15/2003	Peter Mori	0127-086P	5809

22831 7590 11/06/2006

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EXAMINER

KRUER, STEFAN

ART UNIT PAPER NUMBER

3654

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/737,255

Applicant(s)

MORI ET AL.

Examiner

Stefan Krueer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3 - 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3 - 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) obvious over United States Elevator Corp. (DE 2251124) in view of Grupp et al (US 2002/0100648).

Re: Claim 1, US Elevator discloses his two brake blocks (62 and 66) and that block 62 is "...made from a hard metal of a relatively low frictional resistance, such as carbon steel..." (Page 13, Line 28), yet US Elevator is silent regarding the material of the mating brake block 66, other than by stating that the braking effect is "... primarily achieved by brake shoe 66" (Page 14, Line 2), thereby disclosing the use of dissimilar materials as braking surfaces wherein one surface provides the major frictional load.

Grupp et al teach conventional brake blocks being made of nodular cast iron that generate lower frictional forces and undesirable deposits requiring manual removal (Para. 0002), whereas their inventive frictional material comprises up to 99% of an alloy of aluminum and bronze offering "... a low-maintenance... brake, in which no build-up deposits occur..." while ensuring "...braking power ...identical ... or superior to that of ... brakes with steel..."(Para. 0019 and 0020, respectively).

Grupp et al teach further that their friction material may be in the form of a "compact block" (Para. 0026).

It would have been obvious to one of ordinary skill in the art to modify the invention of US Elevator with the teaching of Grupp et al to provide two brake blocks of unique nodular-cast-iron and aluminum-bronze materials for purpose of reducing maintenance without comprising, if not enhancing, braking force.

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Re: Claim 3 - 4, it would have been obvious to one having ordinary skill in the art at the time the invention was made to interchange the material of construction of the movable and non-movable brake blocks, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Response to Arguments

Applicant's arguments filed 10 October 2006 have been fully considered but they are not persuasive.

Aluminum bronze is understood to be "...a copper-aluminum alloy which also may contain iron, manganese, nickel or zinc..." as defined by McGraw-Hill Encyclopedia of Science and Technology and as corroborated by Encyclopedia Britannica and other technical sources.

As cited above, Grupp et al teach the preference for several elements and/or their combinations including tin, copper, aluminum, nickel and zinc (Para. 0019), as well as alloys thereof, which are amongst the primary components in the formation of aluminum-bronze and therefore in the family of materials as known in the art. The aforementioned materials are offered as the preferable composition of their non-conductive, sintered, *friction* material in the form of either a coating or a compact block.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kudo et al (US 5,576,369), Bockius et al (US 2,122,405) and Jones (5,957,251) are cited for reference of the addition of copper and/or aluminum to copper-alloy braking surfaces to increase the coefficient of friction and Windlin (US 2004/0134727) is cited for the use of aluminum-bronze as a primary braking material.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571.272.6928. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

SHK

22 October 2006



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
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